

CHAPTER 13:

MAP AND TEXT AMENDMENTS

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Section 13.1 Purpose

The purpose of this chapter is to set forth procedures for amending the text of these regulations and the zoning classification of land as shown on the Zoning Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy. Procedures for making amendments to the Unified Development Ordinance text or Zoning map are also set forth.

Section 13.2 Authority

Upon compliance with the provisions of this chapter, the Town Board shall have the authority to amend or repeal the text of these regulations and the classification of any parcel of land, as indicated on the Zoning Map.

Section 13.3 Amendment Initiation

- A. Any amendment may be initiated by the Town Board or Planning Board on its own resolution, by any owner of a legal or equitable interest in the property affected by the amendment, or by a local government agency of Troutman, or by any other person living or owning property within the zoning jurisdiction of Troutman in accordance with the procedures set forth herein.
- B. For Conditional Zoning District Rezonings, only an owner of a legal interest in the property may initiate the amendment.

Section 13.4 Amendment Approval Processes

Section 13.4.1 Text Amendment General Provisions

- A. Any proposed amendment to the text of this Ordinance shall be reviewed by the Planning Board and approved by the Town Board as set forth in this Chapter.
- B. An application form requesting the text amendment and fee shall be submitted by the applicant. Said application form and fee shall be waived for any text amendment request submitted by a Troutman official or agency acting on behalf of the Town of Troutman.
- C. Upon approval of the text amendment, the Zoning Administrator shall oversee the updating of this Ordinance to reflect the approved changes.

Section 13.4.2 Standard Rezoning (Map Amendment) General Provisions

- A. Any proposed amendment to the Zoning Map shall be reviewed by the Planning Board and approved by the Town Board as set forth in this Chapter.
- B. Upon approval of the map amendment, the Zoning Administrator shall oversee the updating of the Zoning Map to reflect the approved changes.
- C. When considering a petition for the re-classification of property to any district neither the Planning Board nor the Town Board shall evaluate the petition based on any specific proposal for the use or development of the affected property and the petitioner shall refrain from using any graphic materials

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or descriptions of the proposed use or development except for those which would apply to any use permitted in the requested district, provided, however, such information may be presented and considered when on an application for a map amendment for a Conditional Zoning District as outlined below.

Section 13.4.3 Conditional Zoning District Rezoning (Map Amendment) General Provisions

The Conditional Zoning District (CZ) is established to address those situations when a particular use may be acceptable but the general zoning district(s) that would allow that use would not be acceptable. Rezoning of property to any CZ is a voluntary procedure on the part of the property owner and is intended for firm development proposals. It is not intended or suited for securing early zoning for a tentative proposal that may be undertaken at some unknown time in the future. Such zones may be approved or changed only by the Town Board in accordance with the regulations contained herein.

A CZ District shall only be initiated at the request of the petitioner. A CZ district shall not be initiated by the City Council, Planning and Zoning Commission, or administrative staff.

The applicant shall have a reasonable opportunity to consider and respond to any proposed conditions prior to final action by the Board of Aldermen. Only those conditions mutually agreed upon by the Town Board and the applicant, with input from the public, may be incorporated into the Conditional Zoning District.

Following approval of the petition for a CZ District, the subject property shall be identified on the Zoning Map by the appropriate district designation followed by the letters "CZ" and the case number.

For Conditional Zoning Rezoning, a site specific plan meeting the requirements for a Major Site Plan or Major Subdivision is required. Approval of a Conditional Zoning District Rezoning shall result in official amendment to the Town of Troutman Zoning map and an amendment to the UDO.

The review process established in this Ordinance provides for the accommodation of such uses by a reclassification of property into a CZ District, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties. A CZ district allows particular uses to be established only in accordance with site specific standards and conditions pertaining to each individual development project. All site-specific standards and conditions must be consistent with the objectives of these regulations.

Section 13.4.3.1 Procedure

Applications for CZ approvals shall be filed with the Zoning Administrator. The application for a CZ District must include but is not limited to: a sketch plan and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined requirements, will govern the development and use of the property.

Section 13.4.3.2 Criteria

CZ decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions. CZ District decisions shall be made in consideration of identified relevant adopted land use plans for the area, including but not limited to, the Land Use Plan and other land-use policy documents. The applicant shall propose site-specific standards that take into account the following considerations:

- A. The proposed CZ District's use appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the current Land Use Plan.

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- B. The use(s) requested are among those listed as an eligible permitted use in the general use district as included in the rezoning request.
- C. The design of the proposed CZ District uses minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare and vibration and not creates a nuisance.
- D. The use limitations and conditions as proposed and/or imposed for the requested district can reasonably be implemented and enforced for the subject property.
- E. When implemented the proposed and/or imposed use limitations and conditions will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all the uses and the minimum standards of the corresponding general zoning district. If any standards area proposed that are different from the underlying zoning district, the applicant must clearly demonstrate that the overall resultant project is greater than that which is typically allowed by the general district.
- F. The applicant has agreed to accept the use limitations and conditions as proposed and/or imposed for the requested district.
- G. The applicant shall submit a “Statement of Reasonableness” of the proposed rezoning.
- H. For an approval, the Town Board must determine and assert to the amendment being consistent with the adopted Land Use Plan and why the Board considers the action to be reasonable and in the public interest.

Section 13.4.3.3 Additional Information

When dealing with the CZ District process, it may desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Planning Director, Planning Board, and/or Board of Aldermen may request additional information to that required.

Section 13.4.3.4 Public Input Meeting

Before the Planning Board meeting, the applicant must file a written report detailing at least one (1) community meeting held by the applicant. The community meeting shall be held prior to the Planning Board’s consideration of the request. The following procedures must be met for the public input meeting:

Based on the perceived impact of the proposal, the affected property owners will be notified by the applicant. Such notice shall be mailed to said property owners not less than ten (10) days prior to the date of the public input meeting and a certification of this mailing shall be submitted as part of the required report. The notice shall contain information regarding the time and location of the public input meeting as well as a description of the proposal.

The report shall include the following:

- Those persons and organizations contacted about the meeting
- The date, time, and location of the meeting
- A roster of the persons in attendance at the meeting
- A summary of issues discussed at the meeting
- A description of any changes to the rezoning petition as result of the meeting.

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Section 13.4.3.5 Scope of Approval

The approval of a rezoning to a CZ District does not authorize development activity. The rezoning to the CZ District and approval of the sketch plan shall authorize the applicant to move forward in the review process.

Section 13.4.3.6 Recordation of Conditional Zoning District

The applicant will ensure that the Ordinance approving the CZ District is duly certified, and that the legal description and accompanying plan, is recorded in the office of the Register of Deeds of Iredell County. The applicant shall also record a deed restriction upon the subject property that requires compliance with the conditions attached to the CZ District Ordinance. The deed restriction is perpetually binding on the property, unless another rezoning request is brought to the Town and approved by the Town Board. The applicant must provide the Administrator a copy of the recorded notification, affixed with the Register's seal and date, book and page number of recording in order to receive approval of the application for a zoning permit.

Section 13.4.3.7 Violation or Invalidity of the Terms and Conditions of A CZ District

A violation of a condition of rezoning to a CZ district as set forth in the final development plan and a violation of other related official documents associated with such rezoning are considered violations of this Ordinance subject to the same remedies and penalties. Upon determining that such a violation has occurred, the Administrator shall notify the property owner of his findings and set a reasonable time for the violation to be corrected or abated in accordance with Chapter 14.

If any condition imposed or consideration made is found to be illegal or invalid, or if an applicant should fail to accept a condition such CZ District and preliminary plat or site plan shall be null and void. Proceedings will be instigated to rezone the property to its previous classification.

Section 13.5 Content of Amendment Application

13.5.1 Noncontiguous Map Amendments

Each noncontiguous parcel of land for which a map amendment is requested shall be deemed as a separate application, and said application fee shall accompany each application. For the purpose of this paragraph, land located and adjacent on either side to the rear and all property directly across any street or public right-of-way from the subject property shall be deemed to be contiguous.

13.5.2 Map Amendment Applications

Each application for a map amendment of land shall be accompanied by the following information:

- A. A survey depicting subject property plus such additional property as to show the location of the subject property with reference to the nearest street intersection, railroad, stream or other feature easily identifiable on the ground. In addition, all property lines which abut the property, and property owners' names and addresses of all contiguous properties shall be furnished.
- B. A written metes and bounds description of the property(ies) proposed for rezoning shall accompany the map.
- C. The current and proposed zoning classification of the lot(s) in question.
- D. The property identification number(s) of the lot(s) in question as issued by the Iredell County Tax Department.

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- E. A statement regarding the consistency of the request with adopted Town plans and the surrounding area.
- F. A statement regarding the reasonableness of the request (for CZ requests only).
- G. A site specific plan (for CZ requests only).

13.5.3 Text Amendment Applications

- A. An application for a change in the text of the Ordinance shall be made on an application form provided by the Zoning Administrator. The application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change, and the reasons therefore.
- B. The application shall also include a statement regarding the consistency of the request with adopted Town plans.

Section 13.7 Planning Board Review and Recommendation

Once the petition is complete, the Zoning Administrator shall refer the petition to the Planning Board for review and recommendation to the Town Board. The Planning Board shall have a maximum of 30 days from the date of referral by the Zoning Administrator to make a written recommendation including a statement regarding the consistency of the request with adopted Town plans and the surrounding area. If a recommendation is not made during said time period, the application shall be forwarded to the Town Board without a recommendation from the Planning Board.

- A. If a recommendation is made to the Town Board by the Planning Board concerning a petition for rezoning, said recommendation shall be as follows:
 - Grant the rezoning as requested, or
 - Grant the rezoning with a reduction of the area requested, or
 - Grant the rezoning to a more restrictive general zoning district or districts, or
 - Grant the rezoning with a combination, or
 - Recommend that the application be denied.
- B. If a recommendation is made to the Town Board by the Planning Board concerning a petition to amend the text of this Ordinance, it shall be as follows:
 - Adoption of the amendment as written, or
 - Adoption of the amendment as revised by the Planning Board, or
 - Rejection of the amendment.

Section 13.8 Public Notice

In order for an amendment to the Zoning Ordinance text or a change in the zoning classification affecting the Zoning Map to be made in accordance with this Chapter, a public hearing must first be held by the Town Board. Notification of the public hearing shall be as follows:

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- A. For text and map amendments, a notice shall be published in a newspaper having general circulation in the Town once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing. If first-class mail notification is not required, then the Town shall publish a notice in accordance with the requirements stated in (D).
- B. For map amendments, the Zoning Administrator shall place at least one (1) notice on the subject property(ies) at least ten (10) days prior to the public hearing. Such notice shall state the existing zoning classification and the classification requested by the applicant and the date, time and location of the public hearing. The notice shall be removed only after the public hearing has been conducted and the Town Board has rendered its final decision.
- C. For map amendments, a notice of a proposed zoning classification change on the Zoning Map shall be sent by first class mail by the Zoning Administrator to all contiguous property owners for all such requests. However, the first class mail notice shall not be required if the rezoning action directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners; or
- D. If first class notice is not required in this section, then the Town shall publish a one-half (1/2) page notice once a week for two (2) successive calendar weeks in a newspaper having general circulation in the Town. Such notice shall include a map showing the boundaries of the area affected by the proposed ordinance or amendment. The Zoning Administrator shall send first class mail notices of the proposed ordinance or amendment to all property owners who reside outside the Town's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property. The Zoning Administrator shall certify to the Town that the proper first class mail notifications were made to required property owners.
- E. For map amendments initiated by a third party, property owner(s) who are not signatories of the application for zoning map amendments must be notified through personal delivery or registered, certified, or delivery receipt mail. A notice shall be written by the Zoning Administrator, yet the burden for making this actual notice is on the third party requesting the rezoning. Such notice shall state the existing zoning classification and the classification requested by the third party and the date, time, and location of the public hearing. The proof of which shall be provided to the Zoning Administrator 48 hours (not counting weekends) prior to the public hearing. Failure to do so will result in cancellation of the public hearing. This requirement shall not apply if a map amendment is initiated by the Town.

Section 13.9 Town Board Action

13.9.1 Protest Petition

- A. A valid protest petition against a map amendment request shall be signed by the owners of 20 percent or more of the subject area or owners of five (5) percent of the surrounding property extending 100 feet from the subject area. Where the subject area abuts a street right-of-way, the 100 feet shall be measured starting from the opposite side of the street right-of-way unless the right-of-way is greater than 100 feet. An amendment shall not become effective except by favorable vote of three-fourths (3/4) of all the members of the Town Board. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the Ordinance as a result of annexation or otherwise.

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- B. No protest against any change in or amendment to the Zoning Map shall be valid or effective for the purposes of this Section unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the Town at least two normal work days, excluding Saturday, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. All protest petitions shall be on a form prescribed and furnished by the Town, and such form may prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of the petition. The protest petition must be valid at the time that the vote is taken and shall meet the requirements of North Carolina General Statutes 160A-385 & 386.

13.9.2 Decision

Once the public hearing has been conducted, the Town Board shall render a decision on the petition including a written statement regarding the consistency of the amendment with adopted Town plans and the surrounding area. CZ map amendments shall also include a written statement of reasonableness of the proposed amendment. The decision of the Town Board shall be in the form of any of the various options listed below:

A. For Map Amendments (rezonings):

- Grant the rezoning as requested, or
- Grant the rezoning with a reduction of the area requested, or
- Grant the rezoning to a more restrictive general zoning district or districts, or
- Grant the rezoning with a combination, or
- Deny rezoning.

B. For Text Amendments

- Adoption of the amendment as written, or
- Adoption of the amendment as revised by the Planning Board, or
- Rejection of the amendment.

C. Alternatively, the Town Board may send the application back to the Planning Board for further study and consideration. The Planning Board shall have 30 days from the date of referral by the Town Board to make further recommendations.

D. The petitioner shall have the right to withdraw his petition at any time prior to the final decision being rendered by the Town Board.

E. The Town Board shall have the authority to call for additional public hearings on any amended petition brought before them.

Section 13.10 Notification of Decision

Once a public hearing has been held and closed, and a final determination made by the Town Board, said decision shall be sent by first class mail by the Zoning Administrator to the applicant and any persons at or before the public hearing who have indicated in writing to the Zoning Administrator that they would like the decision mailed to them, within five (5) working days following the date of said decision.

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Similarly, notice shall be sent to the applicant in the same manner if the Town Board makes a decision to re-submit the petition to the Planning Board for further review.

Section 13.11 Resubmission of Petition

- A. If the Town Board has denied an application for the rezoning of a piece of property or has approved a rezoning to a general zoning district which is more restrictive than that which was originally requested, the Planning Board shall not review any applications for the same changes affecting the same property or any portion thereof until the expiration of one (1) year from the date of such previous denial except as provided below.
- B. The Zoning Administrator may allow re-submission of such petition within said one (1) year period if he determines that, since the date of action on the prior petition:
- There has been a significant change in the zoning district classification of an adjacent piece of property; or
 - The Town Board has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed;
 - Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification; or
 - There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition; this, however, shall not include a change in the ownership of the subject property.